NOTIFICATION

(LAW DEPARTMENT)

No. LAW 78 LCR 65, dated Bangalore, the 7th April 1965.

Ordered that the accompanying Notification No. S. O. 591, dated 15th February 1965 of the Central Board of Direct Taxes regarding the Income-tax (Second Amendment) Rules, 1965, which has been published in the *Gazette of India*, Extraordinary, Part II, Section 3, sub-section (ii) dated the 15th February 1965, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secy. to Govt., L.D.

39

GOVERNMENT OF INDIA.

CENTRAL BOARD OF DIRECT TAXES

NOTIFICATION

INCOME-TAX

New Delhi, the 15th February 1965.

S. O. 591.—In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. These Rules may be called the Income-tax (Second Amendment) Rules, 1965.

2. In rule 112 of the Income-tax Rules, 1962 (hereinafter referred to as the principal Rules)—

(i) in sub-rule (1), for the brackets and figures "(11)", the brackets and figures "(14)" shall be substituted;

(ii) in sub-rule (2), for clause (iii), the following clause shall be substituted, namely:—

"(iii) authorise the Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be, to enter and search

any building or place specified therein and to exercise the powers and perform the functions under sub-section (1) of section 132, with such assistance of police officers or of officers of the Central Government, or of both, as may be required.";

(iii) in sub-rule (4), after the words "police officers"; the following shall be inserted, namely:—

"or of officers of the Central Government, or of both,".

(iv) after sub-rule (4), the following sub-rules shall be inserted, namely :—

"(4A) The inspecting Assistant Commissioner or the Income-tax Officer, as the case may be, may require any person who is the owner, or has the immediate possession, or control, of any box, locker, safe, almirah or any other receptacle situate in such building or place, to open the same and allow access to inspect or examine its contents, and, where the keys thereof are not available or where such person fails to comply with any such requirement, may cause any action to be taken including the breaking open of such box, locker, safe, almirah or other receptacle which the Inspecting Assistant Commissioner or, as the case may be, the Income-tax Officer may deem necessary for carrying out all or any of the purposes specified in the authority issued under sub-rule (2).

(4B) The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be, may, where it is not practicable to seize the money bullion, jewellery or other valuable article or thing or any book of account or document, serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of the Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be, who may take such steps as may be necessary for ensuring compliance with this sub-rule.";

(v) for sub-rule (10) and (11), the following sub-rules shall be substituted, namely :—

"(10) The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be shall place or cause to be placed the bullion, jewellery and other vatuable articles and things seized during the search in a package or packages which shall be listed with details of the bullion, jewellery and other valuable articles and things placed therein : every such package shall bear an identification mark and the seal of the Inspecting Assistant Commissioner or any other Income-tax authority not below the rank of Income-

tax Officer and the occupant of the building or place searched or any other person in his behalf shall also be permitted to place his seal on them. A Copy of the list prepared shall be delivered to such occupant or person. A copy shall also be forwarded to the Commissioner.

(11) The Inspecting Assistant Commissioner or the Income-tax Officer as the case may be, may convey the books of account and other documents, if any, seized by him in the course of the search made by him and the package or packages, if any referred to in sub-rule (10) to the office of any Income-tax authority not below the rank of Income-tax Officer (hereinafter referred to as the Custodian). Any money seized in the search referred to above may also be deposited with the Custodian.

(12) (i) The Custodian shall take such steps as he may consider necessary for the safe custody of—

(a) books of account and other documents, and

(b) the package or packages, conveyed to him.

(ii) The Custodian may deposit for safe custody all or any of the packages with any branch of the reserve Bank of India or the state Bank of India or of its subsidiaries or a Government Treasury.

(iii) Where any money has been deposited with the Custodian he may credit the money, or remit the money, through the nearest Government Treasury free of charge for being credited, in the personal Deposit Account of the Commissioner in the Government Treasury at the place where the office of the Commissioner is situate.

(13) (i) Whenever any sealed package is required to be opened for any of the purposes of the Act, the Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be, may, unless he is himself the Custodian requisition, the same from the Custodian and on receipt of the requisition such package or packages, as the case may be, shall be delivered to him by the Custodian. The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be, may break any seal and open such package in the presence of two respectable witnesses after giving a reasonable notice to the person from whose custody the contents were seized to be present.

Such person shall be permitted to be present till all or any of the contents of such package are placed in a fresh package or packages and sealed in the manner specified in sub-rule (1) or delivered to such person or the Custodian, as the case may be

(14) The authorisation of the Commissioner referred to in sub-rule (2) shall be in Form No. 45.".

3. After rule 112 of the principal Rules, the following rules shall be inserted, namely :—

"112A. *Inquiry under section* 132.—(1) Where any money, bullion, jewellery or other valuable article or thing (hereinafter referred to as assets) are seized, the Income-tax Officer shall within fifteen days of the seizure issue to the person in respect of whom enquiry under sub section (1B) of section 132 is to be made requiring him on the date to be specified therein (not being earlier than fifteen days from the date of service of such notice) either to attend at the office of the Income-tax Officer to explain or to produce or cause to be there produced evidence on which such person may rely for explaining the nature of the possession and the source of the acquisition of the assets.

(2) The Income-tax Officer may issue a notice to the person referred to in sub-rule (1) requiring him on a date specified therein to produce or cause to be produced at such time and at such place as the Income-tax Officer may specify such accounts or documents or evidence as the Income-tax Officer may require and may from time to time issue further notices requiring production of such further accounts or documents or other evidence as he may require.

(3) The Income-tax Officer may examine on oath any other person or make such other inquiry as he may deem fit.

(4) Before any material gathered in the course of the examination or inquiry under sub-rule (3) is used by the Income-tax Officer against the person referred to in sub-rule (1) the Income-tax Officer shall give a reasonable notice to that person to show cause why such material should not be used against him.

112B. *Release of articles under section* 132 (1B).—Where in pursuance of sub-section (1B) of section 132 of the Act the assets or part thereof have to be released, the Income-tax Officer shall forthwith deliver the same to the person from whose custody they were seized in the presence of two respectable witnesses.

112C. *Application of the retained assets.*—The assets retained under sub-section (1B) of section 132 of the Act may be dealt with in the following manner :—

(i) The amount of the existing liability referred to in clause (iii) of the said sub-section and the amount of the liability

determined on completion of the regular assessment or re-assessment for all the assessment years relevant to the previous years to which the income referred to in clause (i) of that sub-section relates and in respect of which he is in default or is deemed to be in default may be recovered out of such assets.

(ii) If the assets consist solely of money or partly of money and partly of other assets, the Income-tax Officer may apply such money in the discharge of liabilities referred to in clause (i) and the assessee shall be discharged of such liability to the extent of the money so applied.

(iii) The assets other than money may be applied for the discharge of any such liability referred to in clause (i) as remains undischarged.

11?D. *Release of remaining assets* —Any assets or proceeds thereof which remain after the liabilities referred to in clause (i) of rule 112 are discharged shall be forthwith made over or paid to the person from whose custody the assets were seized in the presence of two respectable witnesses.".

4. In Appendix II to the principal Rules, for Form No. 45, the following Form shall be substituted, namely :—

FORM No. 45

(*See* Rule 112)

Warrant of Authorisation under section 132 of the Income-tax Act, 1961 and Rule 112 (1) of the Income-tax Rules, 19 .2.

The Inspecting Assistant Commissioner of Income-tax—

The Income-tax Officer,

.....

Whereas information has been laid before me and on the consideration thereof, I have reason to believe that—

a Summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 131 of the Income-tax Act 1961 or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 142 of the Income-tax Act, 1961 was issued by the Inspecting Assistant Commissioner of Income-tax/Income-tax Officer.....
.....
.....to.....
(name of the person) on.....(date)

to produce or cause to be produced, books of account or other documents specified in the relevant summons or notice and he has omitted or failed to produce, or cause to be produced, such books of accounts or other documents as required by such summons or notice:

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a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 131 of the Income-tax Act, 1961 or a notice under sub section (4) of section 22 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 142 of the Income-tax Act, 1961 has been issued by the Inspecting Assistant Commissioner of Income-tax/the Income-tax Officer,.....
.....
to.....(name of the person)
on.....(date) to produce, or cause to be produced, books of account or other documents specified in the relevant summons or notice and he will not produce or cause to be produced such books of account or other documents as required by such summons or notice;

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if a summons under sub-section (1) of section 137 of the Indian Income-tax Act, 1922 or under sub section (1) of section 3 of the Income-tax Act, 1961 or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 142 of the Income-tax Act, 1961 is issued to.....
.....
.....(name of person) to produce or cause to be produced, books of account or other documents which will be useful for, or relevant to, proceedings under the Indian Income-tax Act, 1922 or under the Income-tax Act, 1961, he would not produce, or cause to be produced, such books of account or other documents as required by such summons or notice;

Sarvashri/Shri/Shrimati.....are/is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been disclosed for the purposes of the Indian Income-tax Act, 1922 or the Income-tax Act, 1961;

And whereas I have reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing have been kept and are to be found

at.....
.....

(Specify particulars of the building or place). This is to authorise and require you.....
.....

name of the Inspecting Assistant Commissioner of Income-tax or the Income-tax Officer)—

(a) to enter and search the said premises ;

(b) to place identification marks on such books of account and documents as may be found in the course of the search and as you may consider relevant to or useful for the proceedings aforesaid and to make a list thereof together with particulars of the identification marks ;

(c) to examine such books of account and documents and make, or cause to be made, copies or extracts from such books of account and documents ;

(d) to seize any such books of account, documents, money, bullion, jewellery or other valuable article or thing found as a result of such search and take possession thereof ;

(e) to make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing ;

(f) to convey such books of account, documents, money, bullion, jewellery or other valuable article or thing to the office of the Inspecting Assistant Commissioner of Income-tax or any other authority not below the rank of the Income-tax Officer employed in the execution of the Income-tax Act, 1961 ; and

(g) to exercise all other powers and perform all other functions under section 132 of the Income-tax Act, 1961 and the rules relating thereto.

You may requisition the services of any Police Officer or any Officer of the Central Government, or of both, to assist you for all or any of the purposes specified in sub-section (1) of section 132 of the Income-tax Act, 1961.

Commissioner of Income-Tax.

[No. 11/65 F. No. 3 (3) 65 TPL.]

G. B. HEGDE, Secy.